

Summary of Proposed Code Amendments Related to Environmental Appeals

112.0310	When a Notice of Right to Appeal (NORA) is Required: Clarifies that categorical exemptions, statutory exemptions, and environmental documents decided at the staff level require a NORA. (Existing code does not require NORAs for Statutory exemptions.)
	Actions that do not Require a NORA: NORAs are not required for documents decided by Hearing Officer or Planning Commission (since project staff reports already identify the environmental determination and the Planning Commission Chair and Hearing Officer provide verbal notice of the right to appeal their decision). Activities “not subject to CEQA” per 15060 and determinations approved by the Council also don’t require NORAs (not appealable).
	Required Contents of a NORA: NORAs must contain the project name, location, project description, environmental determination and supporting reason/CEQA sections, date of the notice, and the time period to file an appeal.
	Posting Requirements for a NORA: NORAs are posted at the Development Services Department in a public location and on the City website on the date of environmental determination, and must remain posted for 10 business days.
	Distribution Requirements for a NORA: NORAs are distributed via email (US mail if email is unavailable) to the Council district where project is proposed, community planning group, and interested persons on date of environmental determination.
112.0511	Provision for Emergency Activities to proceed before appeal rights are exhausted: In case of need for immediate action to prevent or mitigate loss or damage to life, health, property or essential public services, clarification allows emergency to proceed before appeal rights are exhausted.
112.0520	Time for Filing an Environmental Determination Appeal: Clarifies that appeals must be filed within 10 business days of the environmental determination. For projects that require a NORA, the appeal period begins the date the NORA is posted. For determinations made by the Planning Commission or Hearing Officer, the appeal period begins on the date of decision. The length of the appeal period is 10 business days for all environmental determination appeals.
	What happens in the case of a tie vote by City Council on an Environmental Appeal: In case of a tie vote by the City Council, the environmental determination is considered disapproved.
113.0103	Definition of “Environmental Determination”: The term includes all determinations per CEQA section 15061(b)—not just subsections (2) and (3).
128.0202	Incorporation of CEQA Reference to Activities that are “Not Subject to CEQA”: Clarifies that an activity is not subject to CEQA if the activity does not involve the exercise of discretionary powers by a public agency; if the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment; or if the activity is not a project as defined in Section 15378.
128.0203	Actions Exempt from CEQA: Expands the existing reference to cover off all exemptions per CEQA section 15061(b), and addresses inconsistencies with respect to ministerial actions, which can be either “not subject to CEQA” per LDC Section 128.0202 (no discretion involved) or meet the CEQA statutory exemption for ministerial actions.
128.0207	Environmental review for exemption from CEQA: Clarifies that a determination that a project is exempt per CEQA 15061(b) is appealable per LDC Section 112.0510.
128.0208 128.0209 128.0210	Development Services Director is responsible for implementing CEQA and NEPA within the City: Updates old terminology found in Chapter 12, Article 8 to clarify that the Development Services Director is the Director for the City of San Diego that is responsible for implementing CEQA and NEPA.

Type of Environmental Determination	City Decision Maker	Is Determination Appealable per CEQA?	Is a Notice of Right to Appeal (NORA) required?	
			Existing	Proposed
<i>Statutory Exemption</i>	City Council ¹	No	No	No
	City Manager	Yes	No	Yes
	Hearing Officer and Planning Commission	Yes	No	Yes
<i>Categorical exemption and General Rule Exemption</i>	City Council ¹	No	No	No
	City Manager	Yes	Yes	Yes
	Hearing Officer and Planning Commission	Yes	Yes	Yes
<i>Adopt or Certify an Environmental Document (ND, MND, EIR)</i>	City Council ¹	No	No	No
	City Manager	Yes	Yes	Yes
	Hearing Officer and Planning Commission	Yes	No	No ²

- 1 Environmental determinations made by the City Council are not appealable and do not require a NORA.
- 2 A NORA is not required when environmental documents are adopted or certified as part of a public hearing. The staff report identifies the environmental determination and the Hearing Officer and Chair of the Planning Commission verbally provide notification of the right to appeal their decision before dispensing with an item.